VIRGINIA

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 12th day of November, 2009.

Michael A. Scott, et al. Appellants,

Against Record No. 090462
Circuit Court No. CL08-3200

Samuel I. White, P.C., et al., Appellees.

Upon a Petition for Rehearing

On consideration of the petition of the appellants to set aside the judgment rendered herein on the 28th day of July, 2009 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By: /s/

Deputy Clerk

VIRGINIA

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 28th day of July, 2009.

Michael A. Scott, et al. Appellants,

Against Record No. 090462
Circuit Court No. CL08-3200

Samuel I. White, P.C., et al., Appellees.

From the Circuit Court of the City of Virginia Beach

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By: /s/

Deputy Clerk

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

MICHAEL A. SCOTT, *pro se,*
TERRY A. SCOTT, *pro se,*

Plaintiffs,

v. CASE NO. CL08-3200

SAMUEL I. WHITE, P.C., et al.,

Defendants.

ORDER

THIS CAUSE came on to be heard on the motions of the plaintiff, Michael A. Scott, for a non-suit and plaintiff, Terry A. Scott, for default judgment and injunctive relief, and objection to non-suit and dismissal filed by defendants.

After reviewing the various pleadings, transcripts and Orders in related proceedings in the Norfolk Circuit Court and the United States District Court for the Eastern District of Virginia, and hearing the arguments of counsel and the plaintiffs, it appears to the Court that the intent of the Order entered by the presiding judge of the Norfolk Circuit Court was to bar all actions by both Michael and Terry Scott relating to the subject matters involved.

The Court finds the plaintiffs are in violation of that Order. It is, therefore, ORDERED as follows:

(1) Plaintiff's motion for non-suit be the same is hereby DENIED;

(2) Plaintiff's motions for default judgment and injunctive relief be and the same are hereby DENIED;

(3) Defendants' objection to non-suit be the same is hereby GRANTED and this case is DISMISSED WITH PREJUDICE.

ENTER: 2/25/09

/s/
Edward W. Hanson, Jr., Judge

WE ASK FOR THIS:

/s/
Stanley G. Barr, Jr.,
Counsel for Defendants,
Samuel I. White, P.C., Mortgage Electronic Registration Systems, Inc., Wells Fargo Bank, NA, DLJ Mortgage Capital, Inc., Wells Fargo Home Mortgage, Inc., GE Mortgage Services, LLC, and Jason Hamlin

/s/
Ronald J. Guillot, Jr.
Counsel for Defendant,
US Bank, NA

SEEN AND OBJECTED TO:

/s/
Michael A. Scott, *pro se plaintiff*

/s/
Terry A. Scott, *pro se plaintiff*

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

MICHAEL A. SCOTT,

Plaintiff,

v. AT LAW NO. L99-351

NORFOLK SOUTHERN CORP., et al.,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR ENTRY OF JUDGMENT BY DEFAULT AND GRANTING DEFENDANTS' MOTION FOR SANCTIONS AND PRE-FILING INJUNCTION

This day came the Plaintiff, Michael A. Scott, pro se, and Defendants, Norfolk Southern Corporation, et al., by counsel, on Plaintiff's Motion for Entry of Judgment by Default and,

The Court, having fully considered the briefs and oral argument of the parties, ORDERS and ADJUDGES that Plaintiff Motion for Entry of Judgment by Default be, and the same hereby is, DENIED; and

The Court, having fully considered the briefs and oral argument of the parties, finds:

1. That Plaintiff's attempt to invoke this Court's jurisdiction in his Motion for Entry of Judgment by Default is frivolous;

2. That Plaintiff is using the legal process to harass Defendants and has been doing so for a period of years;

WHEREFORE the Court further ORDERS, ADJUDGES and DECREES that Defendants' Motion for Sanctions is hereby GRANTED and that sanctions are imposed upon Michael A. Scott as follows:

1. Defendants are awarded a judgment against Michael A. Scott in the amount of $10,000.00, and the judgment amount is payable to Norfolk Southern Corporation as judgment creditor; and

2. Michael A. Scott is hereby enjoined from filing any further actions, suits, motions or other proceedings in any Court of this Commonwealth without first obtaining leave of this Court.

There being no other matters before the Court, it is ORDERED that this matter shall be, and the same hereby is, concluded and struck from the Court's docket.

ENTER: July 2, 2001

/s/
Judge, Norfolk Circuit Court
Charles E. Poston, Judge

I ask for this:

Samuel J. Webster,
Counsel for all Defendants

Seen and objected to:

Michael A. Scott, Plaintiff

Handwritten note:

At ore tenus hearing on June 26, 2001, the matter was continued to 7/2/01 for entry of order. The plaintiff did not appear.

/s/ C Poston

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

MICHAEL A. SCOTT, *pro se,*
TERRY A. SCOTT, *pro se,*
4753 Longmont Road
Virginia Beach, Virginia 23456

Plaintiffs,

vs.

At Law No. _____
Complaint
Jury Trial
Demanded

SAMUEL I. WHITE, P.C.
c/o William Adam White
Registered Agent
5040 Corporate Woods Drive, Suite 120
Virginia Beach, Virginia 23462

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
c/o Sharon Horstkamp
Registered Agent
1595 Spring Hill Road, Suite 310
Vienna, Virginia 22182

LANDMARK COMMUNICATIONS, INC.
c/o Guy R. Friddell III
Registered Agent
150 West Brambleton Avenue
Norfolk, Virginia 23510

PRIME EQUITY, LLC

c/o Steven Murphy
Registered Agent
636 US Highway 1, Suite 118
North Palm Beach, Florida 33401

WELLS FARGO BANK, NA
c/o CSC Lawyers Incorporating Service
Registered Agent
P. O. Box 526036
Sacramento, California 95852

DLJ MORTGAGE CAPITAL, INC.
c/o Corporation Service Company
Registered Agent
11 South 12TH Street
Richmond, Virginia 23218

WELLS FARGO HOME MORTGAGE, INC.
dba AMERICA'S SERVICING COMPANY
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, Delaware 19808

US BANK, NA
c/o C T Corporation System
Registered Agent
4701 Cox Road, Suite 301
Glen Allen, Virginia 23060

GE MORTGAGE SERVICES, LLC
c/o The Corporation Trust Company
Registered Agent
Corporate Trust Center
1209 Orange Street
Wilmington, Delaware 19801

JASON HAMLIN
5040 Corporate Woods Drive, Suite 120
Virginia Beach, Virginia 23462

EDWARD BARCLIFF, JR.
1416 Virginia Beach Boulevard
Virginia Beach, Virginia 23454

Defendants.

COMPLAINT

Plaintiffs Michael A. Scott and Terry A. Scott, proceeding *pro se,* state:

I. Claims

Plaintiffs allege claims under Virginia law for actual and or constructive fraud, deceit and misrepresentation, ejectment (Code of Virginia § 8.01-131 *et seq.),* negligent and intentional infliction of emotional distress, breach of fiduciary duty, voidance of foreclosure, fraudulent conveyance (Code of Virginia § 55-80), removal of cloud on title (Code of Virginia § 55-153), voidance of deed of trust lien (Code of Virginia § 55-96), failure to release deed of trust lien (Code of Virginia § 55-66.3), libel, defamation, slander, insulting words (Code of Virginia § 8.01-45), unauthorized use of name (Code of Virginia § 8.01-40), economic duress, abuse of process, malicious prosecution, breach of and tortuous interference with contract, Code of Virginia § 8.01-221 for violation of Virginia statutes, and

unjust enrichment. All of these claims relate to the plaintiffs property located at 4753 Longmont Road, Virginia Beach, Virginia 23456 ("Longmont Road property"). Plaintiffs also seek injunctive relief, pursuant to Code of Virginia § 8.01-620 *et seq.*, in connection with the Longmont Road property. None of the claims related to the Longmont Road property are alleged against GE Mortgage Services, LLC, Prime Equity, LLC or Edward Barcliff, Jr.

II. Parties

A. Plaintiffs are residents of Virginia residing at the Longmont Road property, and were residents of Virginia at all material times relevant to this complaint.

B. Defendant Wells Fargo Home Mortgage, Inc. dba America's Servicing Company ("ASC") is a business entity organized and existing under the laws of the state of California. Defendant Wells Fargo Bank, NA ("Wells Fargo") is the parent of Wells Fargo Home Mortgage, Inc. ("WFHM") and was a transferee for the January 20, 2006 note on the Longmont Road property. Wells Fargo also refinanced the original note on the Longmont Road property. WFHM, at all material times relevant to the foreclosure process on the Longmont Road property [illegible]ly operated and conducted business under the laws of the Commonwealth of Virginia.

C. Defendant US Bank, NA ("US Bank") was a national association with its principal place of business located at 464 California Street, San

Francisco, California 94104 at all material times relevant to the foreclosure of the Longmont Road property. US Bank was the "Trustee for CSAB HEAT 2006-4", a trust, and acting as custodian of the January 20, 2006 note on the Longmont Road property as part of the trust.

D. Defendant DLJ Mortgage Capital, Inc. ("DLJ Mortgage") was a business entity organized and operating under the laws of the Commonwealth of Virginia at all material times relevant to the foreclosure of the property located at 4753 Longmont Road, Virginia Beach, Virginia 23456.

E. Defendant GE Mortgage Services, LLC ("GE Mortgage") was a business entity organized and existing under the laws of the Commonwealth of Virginia and the states of Connecticut and Delaware at all material times relevant to the foreclosure of the plaintiffs property located at 602 Zephyr Court, Virginia Beach, Virginia 23462 (the "Zephyr property"). The claims alleged in this complaint against GE Mortgage relate solely to the Zephyr property. Defendants Jason Hamlin, US Bank, DLJ Mortgage and Wells Fargo are not parties to the claims related to the Zephyr property.

F. Defendant Samuel I. White, P.C. ("SIWPC") is a business entity organized and existing under the laws of the Commonwealth of Virginia. SIWPC was the substitute trustee for the foreclosure process on the plaintiffs' Longmont Road and Zephyr properties.

G. Defendant Prime Equity, LLC ("Prime Equity") was a Florida limited liability company that financed defendant Edward Barcliff, Jr.'s purchase of the Zephyr property in June 2005 and secured the note with a deed of trust lien on the Zephyr property. The only claims alleged against Prime Equity in this complaint relate solely to title for the Zephyr property.

H. Defendant Mortgage Electronic Registration Systems, Inc. ("MERS") was the designated beneficiary under the January 20, 2006 deed of trust on the Longmont Road property, and was the nominee on behalf of Aegis Funding Corporation ("Aegis Funding") and its successors and assigns. MERS was also an assignee of the note from Prime Equity on June 22, 2005 for the Zephyr property, as well as beneficiary under the deed of trust lien for the Zephyr property.

I. Defendant Landmark Communications, Inc. ("Landmark") was a Virginia based company and publisher and parent company of the *Virginian-Pilot* newspaper at all material times relevant to this complaint.

J. Defendant Jason Hamlin ("Hamlin") was an attorney for SIWPC who participated in issuing and prosecuting the wrongful summons for unlawful detainer on behalf of US Bank in the Virginia Beach General District Court for the Longmont Road property and is being sued in his official capacity with SIWPC and in his individual capacity.

K. Defendant Edward Barcliff, Jr. ("Barcliff") is a Virginia resident who purchased the Zephyr property in June 2005 and is the current owner of record for the Zephyr property. The only claims alleged against Barcliff in this complaint relate solely to title for the Zephyr property.

III. Allegations

1. The plaintiffs' original note for their Longmont Road property was assigned to WFHM prior to December 28, 2004. The plaintiffs assumed the original note from Jean S. Cross in May 1993 and a deed of assumption conveying the property to the plaintiffs was executed and recorded in the land records of this Court on or about May 24, 1993. In the deed of assumption, the plaintiffs were the grantees and Ms. Cross was the grantor. This deed of assumption was never released in this Court's land records and remains to date in force in the chain of title for the Longmont Road property.

2. Plaintiffs refinanced the original note on their Longmont Road property with Wells Fargo on December 28, 2004. The deed of trust securing that note was titled in both plaintiffs' names, and recorded and indexed in their names in the land records of this Court on or about January 12, 2005. After the December 28, 2004 refinancing, WFHM failed to fully and properly release the lien of its original deed of trust and of the May 1993 deed of assumption on the Longmont Road property as required by and in violation of Code of Virginia § 55-66.3. Plaintiffs again refinanced the note on their Longmont Road property with FMF Capital LLC on

October 21, 2005, which resulted in Wells Fargo's note being paid in full on or about November 1, 2005. Wells Fargo failed to fully and properly effect release of the lien of its December 28, 2004 deed of trust or the deed of assumption on the Longmont Road property as required by and in violation of Code of Virginia § 55-66.3 and the terms of the deed of trust; nor was a release of the lien properly index as required by Code of Virginia § 55-66.4:2. Consequently, pursuant to § 55-66.3 Wells Fargo and WFHM are each liable to the plaintiff for $500.00 each in damages for its own failure to fully and properly release both plaintiffs from the lien of its deed of trust and or the deed of assumption on the Longmont Road property.

3. On January 20, 2006, the plaintiffs refinanced the note on their Longmont Road property with Aegis Funding. Aegis Funding's affiliate and loan servicer Aegis Mortgage Corporation subsequently sold its (Aegis Funding) interest in the note to DLJ Mortgage Capital, Inc. on or about May 1, 2006 in a bulk sale of pooled mortgages. Ultimately, the note was transferred to and taken by Wells Fargo and US Bank as part of an investment trust. The January 20, 2006 deed of trust failed to comply with Code of Virginia 55-58.3(B)(1). As a result of this failure and the failures of Wells Fargo's and WFHM's to fully and properly release the lien of each of its deed of trust and the deed of assumption on the Longmont Road property, the January 20, 2006 deed of trust is void under Code of Virginia § 55-96 because Aegis Funding and its assignees and transferees either knew or should have known from the land records of this Court that

the lien of previous deeds of trust and deed of assumption had not been fully and properly released as required by Code of Virginia § 55-66.3. SIWPC had no authority as a substitute trustee under the void January 20, 2006 deed of trust.

4. DLJ Mortgage, US Bank, Wells Fargo, ASC, MERS, SIWPC and Hamlin combined and conspired in a scheme to conceal the fact that the January 20, 2006 deed of trust on the Longmont Road property was not a valid lien or security for the note in order to cloak the lack of trustee authority under the deed of trust. As part of that scheme, these defendants fraudulently represented in a Substitution of Trustee document recorded in the records of this Court and in a trustee's deed and other documents used in the foreclosure and eviction process that US Bank was the noteholder for the Longmont Road property with authority to enforce the note when they knew or should have known that the representation was false; these defendants used the false representations to forcibly change and take the title to the Longmont Road property from the plaintiffs.

5. On or about May 1, 2006, DLJ Mortgage purchased the January 20, 2006 note for the Longmont Road property from loan servicer Aegis Mortgage as part of a bulk secondary sale of pooled mortgages. In the January 20, 2006 deed of trust, Aegis Funding specifically named MERS as the beneficiary and nominee for the lender, its successors and assigns, vesting MERS with legal title. Naming MERS as the beneficiary and nominee under the deed of trust precluded Aegis Mortgage

from transferring or selling the deed of trust as security for the note. Only MERS had the authority to allow the deed of trust to be transferred or sold as a security interest for the note. Consequently, the deed of trust was fraudulently conveyed as security for the note and, therefore, DLJ Mortgage, US Bank, Wells Fargo and ASC had no security for the note Aegis Mortgage wrongfully sold to DLJ Mortgage, and had no equitable or legal interest in the deed of trust.

6. DLJ Mortgage, US Bank, Wells Fargo, ASC, MERS, SIWPC and Hamlin combined and conspired in a scheme to fraudulently use the January 20, 2006 deed of trust as security for the note, and conceal the fact that the January 20, 2006 deed of trust for the Longmont Road Property was not and could not be included with DLJ Mortgage's wrongful purchase of the January 20, 2006 note and that the note was purchased by DLJ Mortgage from Aegis Mortgage as an unsecured and wrongfully sold note. The lender for the note was Aegis Funding and by the terms of the note only the lender could transfer the note and upon the note's wrongful purchase by DLJ Mortgage from Aegis Mortgage the note was not properly transferred by the lender, Aegis Funding resulting in DLJ Mortgage not being a due course holder of the note.

7. US Bank, DLJ Mortgage, Wells Fargo and the trust in which the note was held were never the noteholder within the meaning of the terms of the January 20, 2006 note. US Bank, DLJ Mortgage, Wells Fargo and the trust in which the note was held were never the lender within the

meaning of the terms of the January 20, 2006 note. US Bank as a trustee for the trust that included the note could not have been a noteholder or due course holder of the note within the meaning of Virginia law. Thus, US Bank was without any authority to enforce the note rendering the February 6, 2008 foreclosure auction void.

8. US Bank was the designated trustee and custodian of the note and MERS was the nominee and beneficiary of the January 20, 2006 deed of trust, and both, in combination and conspiracy with ASC and Wells Fargo, were instrumental in causing the wrongful enforcement of the note and deed of trust and institution of foreclosure proceedings on the Longmont Road property, and in violating the express terms of the deed of trust.

9. The Longmont Road property's January 20, 2006 deed of trust was titled in the names of both plaintiffs and the note was only in Michael Scott's name.

10. ASC serviced the note under loan number 1205273029 on behalf of the trust in which the plaintiffs' note was held by Wells Fargo and US Bank.

11. On July 14, 2007, January 28, 2008 and February 4, 2008, the defendants wrongfully, intentionally and maliciously caused the plaintiffs names and Longmont Road property to be advertised in the *Virginian-Pilot* newspaper in connection with advertisement of their illegal, false and misleading

foreclosure sale of the Longmont Road property; the defendants malicious and outrageous actions in communicating the foreclosure with third parties and causing publication of the foreclosure auction and of the foreclosure insulted, defamed, slandered and libeled the plaintiffs in violation of Virginia law suggesting insolvency of the plaintiffs and used plaintiffs' names in the commercial advertisement without their consent and over their vehement objections made directly with SIWPC and Landmark in violation of Virginia law.

12. US Bank's, ASC's and Wells Fargo's illegal, void and voidable claimed foreclosure of the Longmont Road property in combination and conspiracy with Landmark, MERS and SIWPC breached and tortuously interfered with the original note and deed of trust.

13. US Bank, MERS, Wells Fargo, SIWPC and ASC combined and conspired to willfully and maliciously make a series of outrageous and harassing threats to foreclose on the Longmont Road property after receiving letters from the plaintiffs making inquiries about the note and disputing the debt owed.

14. An actual controversy exists between plaintiffs and defendants for voiding the foreclosure on the Longmont Road property on the aforementioned and the following non-exclusive grounds:

a) The plaintiffs notified SIWPC and ASC repeatedly that they disputed the amount

and validity of the debt on the Longmont Road property and neither defendant responded to the plaintiffs' dispute letters. SIWPC and US Bank failed to seek guidance from the state court to resolve the disputes over the debt raised by the plaintiffs;

b) The defendants caused a foreclosure auction to be held on February 6, 2008 to auction the Longmont Road property without any trustee authority or a valid deed of trust lien and in violation of Virginia law;

c) The defendants failed to properly accelerate the note's debt and failed to properly notify the plaintiffs in anyway whatsoever at the correct "notice" address the plaintiffs provided to ASC in direct violation of paragraph 15 of the deed of trust. The plaintiffs "notice" address was P. O. Box 6872, Virginia Beach, Virginia 23456 and was provided to ASC many months before the defendants initiated the foreclosure proceedings. The plaintiffs also notified SIWPC directly about the "notice" address;

d) MERS was designated the sole beneficiary and nominee for the lender and its assignees under the deed of trust vested with the only authority to appoint a substitute trustee and MERS did not appoint SIWPC as the substitute trustee resulting in SIWPC being without any authority under the deed of trust.

e) At the time of the auction on February 6, 2008, a white female ("auctioneer")

emerged from the office of SIWPC and announced that she was there to auction several properties in front of SIWPC's office door. In connection with her auctioning duties, she asked the attendees if she could forego reading all of the auctioneering instructions she was required to read. When none of the attendees responded to her, she stated that she would skip reading the instructions and did;

f) The substitute trustee, SIWPC, or its representative failed to attend any of the foreclosure auctions held outside its office on February 6, 2008 in violation of Virginia code and law. The auctioneer was the only person handling the entire auctioning process for several properties, including the Longmont Road property;

g) The Longmont Road property was the third of several properties auctioned. The auctioneer first announced that there were no written bids submitted for the Longmont Road property. She then stated in open outcry that she would start the bidding for the Longmont Road property at $260,000.00. There were no bidders on the property. She then announced that the property would "revert" back to the "noteholder," ASC, without specifying or announcing the amount ASC actually bid and after having stated that there were no written bids submitted;

h) ASC was not the noteholder and did not bid at the auction or submit any written bids on the Longmont Road property during the auction;

i) SIWPC and the other defendants conspired to fix the bid at the $260,000.00 opening and closing price for the Longmont Road property in a scheme for the benefit and unjust enrichment of US Bank, and to cause the closing bid to be outrageously low, well-below market value, and conscious shocking when similar type properties were listed and selling in the marketplace for $325,000.00 or more;

j) SIWPC conspired with US Bank, Wells Fargo and ASC in a fraudulent scheme to unjustly enrich US Bank by fabricating and fixing a written bid for US Bank in the amount of $260,000.00 to match the closing bid at the auction where no bids, written or announced in open outcry, and where there was no winning bidder or buyer announced;

k) As part of the defendants fraudulent scheme to cover up their inability to sell the plaintiffs Longmont Road property at the illegal foreclosure auction, the defendants fabricated accounting and other related post-auction documents to create the illusion that a sale of the Longmont Road property had occurred after having failed to secure any bidders during the auction, and to create the illusion that US Bank and or other bidders had submitted bids at the auction when they did not;

l) SIWPC in the foreclosure advertisement required a down payment of $20,000.00 or 10 percent before anyone would be allowed to bid on the Longmont Road property. The auctioneer requested the payment prior to

commencing the bidding and there were no prepaid payments made by any attendees or announced by the auctioneer in connection with the Longmont Road property;

m) The defendants caused fabricated and fraudulent documents to be created fraudulently conveying title for the Longmont Road property to SIWPC and US Bank when SIWPC and US Bank failed to attend, make the required down payment, submit a bid, or participate in anyway whatsoever in the auction; the fraudulent conveyance of the title unjustly enriched US Bank when it was not entitled to the title, and unjustly enriched SIWPC with the fees it collected for its trustee and legal counsel services that were charged to and defrauded from sale proceeds and from the plaintiffs; and

n) SIWPC failed to comply with the advertising requirements and failed to conduct the foreclosure sale within the time prescribed in relation to the first advertisement in violation of Virginia code and law and the terms of the deed of trust.

15. Hamlin, Wells Fargo, US Bank, MERS, ASC and SIWPC combined and conspired to use the Virginia Beach General District Court's ("general district court") legal processes to wrongfully and fraudulently claim legal title to the Longmont Road property and to evict the plaintiffs and unlawfully obtain possession of the property after having failed to sell the property at the foreclosure auction pursued based on a void deed of trust and authorized by non due course noteholders as asserted above,

and in so doing, inflicted economic duress on the plaintiffs, maliciously abused the legal process and maliciously prosecuted the general district court's legal process to achieve their vindictive, fraudulent and illegal means, including:

a) Hamlin, Wells Fargo, US Bank, MERS, ASC and SIWPC caused the issuance and service of a summons for unlawful detainer on the plaintiffs and after its issuance unlawfully used the general district court's legal processes to claim legal title to the Longmont Road property and to attempt to obtain possession of the property when they had no legal or equitable interest or right to the property.

b) The general district court did not have jurisdiction over the summons for unlawful detainer because the deed of trust was void under Virginia law and its enforcement was not authorized by the noteholder or due course noteholder, and because Hamlin, Wells Fargo, SIWPC, MERS, ASC and US Bank failed to properly invoke that court's jurisdiction and failed to comply with the deed of trust and such failure and lack of noteholder or due course noteholder authorization precluded trustee authority from being invoked.

c) Hamlin, Wells Fargo, US Bank, MERS, ASC and SIWPC combined and conspired to wrongfully, willfully and maliciously cause the summons for unlawful detainer to issue asserting that the Longmont Road property was sold at foreclosure, which did not and could not have happened since the deed of trust was void, the noteholder or due course noteholder failed to

authorize enforcement of the deed of trust, and MERS as beneficiary and nominee under the deed of trust was not involved in authorizing and appointing the substitute trustee; they failed to invoke the trustee authority under the deed of trust, and failed to invoke the general district court's jurisdiction.

16. The defendants conduct related to the Longmont Road property was fraudulent, illegal, outrageous, willful, intentional, negligent and malicious, designed to harass and inflict, and did harass and inflict, the plaintiffs with economic duress, severe emotional distress, which conduct humiliated and maligned the plaintiffs, their name and likeness and offended generally accepted standards of morality and decency.

17. The defendants fraudulently misrepresented in the summons that the Longmont Road property had been sold at foreclosure when they knew or should have known that there was no authority to foreclose; fraudulently misrepresented that the plaintiffs refused to vacate the Longmont Road property when they knew or should have known that the plaintiffs had uninterrupted legal and equitable title and ownership; fraudulently misrepresented in the land records of this Court that a substitution of trustee had occurred for the Longmont Road property when they knew or should have known that no authority existed for US Bank to substitute a trustee; fraudulently fabricated and concocted that a deed of foreclosure fraudulently conveying title of the Longmont Road property from the plaintiffs to SIWPC and US Bank when they knew or should have known that no foreclosure

occurred; and fraudulently fabricated and concocted accounting documents representing that the Longmont Road property had been sold to US Bank when they knew or should have known that no sale had or could have occurred, and that US Bank did not submit a written bid or pay the down payment required to bid at the auction. The defendants made these libelous, defaming, insulting, false and deceitful misrepresentations to the plaintiff and general district court and the clerk of that court in connection with their summons over which that court did not have jurisdiction causing that court and its clerk to rely on the false and deceitful representations to the detriment of the plaintiffs. This conduct constitutes actual and or constructive fraud, deceit and misrepresentation.

Plaintiff Terry A. Scott, proceeding *pro se,* alleges and states:

18. An actual controversy based on slander of title, unlawful detainer (Code of Virginia § 8.01-124 *et seq.),* fraudulent conveyance (Code of Virginia § 55-80), ejectment (Code of Virginia § 8.01-131 *et seq.),* failure to release deed of trust lien (Code of Virginia § 55-66.3), violation of Virginia statutes (Code of Virginia § 8.01-221), breach of and tortuous interference with contract, voidance of deed of trust lien (Code of Virginia § 55-96), removal of cloud on title (Code of Virginia § 55-153), and voidance of foreclosure exists between plaintiff Terry A. Scott and defendants WFHM[1], Barcliff, MERS, Prime

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[1] Plaintiff uses the name WFHM rather than ASC in connection with the Zephyr property because on information

Equity, Landmark, GE Mortgage and SIWPC based on a July 22, 2003 foreclosure of the Zephyr property and subsequent wrongful conveyance of plaintiffs' title for the following reasons:

a) GE Mortgage was the holder of the original note for the Zephyr property through an assignment. The plaintiffs assumed the original note for the Zephyr property from Mark and Cynthia Hanna (the "Hannas") on or about May 30, 1990. In connection with that assumption, the plaintiffs executed a deed conveying the Zephyr property from the Hannas to the plaintiffs as well as a $50.00 non-pre-payable five-year note to the Hannas secured by a deed of trust. The May 30, 1990 deed and deed of trust were recorded in the land records of this Court. WFHM serviced the original Zephyr property note on behalf of GE Mortgage. SIWPC was the substitute trustee that foreclosed the Zephyr property and in combination and conspiracy with WFHM and GE Mortgage caused forcible entry and taking of the property from the plaintiffs and the eviction of the plaintiff's rental tenant from the property and interference with the rental contract;

b) In November 1993, the plaintiffs refinanced the original note on the Zephyr property with GE Mortgage and executed a deed of trust to secure the new note on behalf of GE Mortgage. GE Mortgage failed to comply with Code of Virginia § 55-58.3(B)(1) resulting in the Hannas unreleased deed and deed of trust liens being superior to its note

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and belief, WFHM was not doing business as ASC during the time related to the Zephyr property. ASC is a fictitious name.

and deed of trust under Virginia law. WFHM serviced the November 1993 note for GE Mortgage;

c) The plaintiff disputed the amount and validity of the debt stated by WFHM, GE Mortgage and SIWPC prior to the July 22, 2003 foreclosure of the Zephyr property. SIWPC failed to seek the aid of the state court to resolve the dispute. The deed of trust was void under Virginia law (Code of Virginia § 55-96) because there was an unreleased deed of trust and deed liens on the Zephyr property when GE Mortgage refinanced the original note that GE Mortgage knew or should have known about. The deed and deed of trust plaintiffs executed in May 1990 with the Hannas remains in force to date in the chain of title for the Zephyr property in the land records of this Court as unreleased liens, providing actual and constructive notice to the public. GE Mortgage never properly released the original deed of trust lien in the Hannas or the plaintiffs' names since they had assumed the original note from the Hannas, and the Hannas never released the lien of the deed and deed of trust securing their $50.00 note under Virginia law;

d) SIWPC, as the substitute trustee under the November 1993 deed of trust, was without authority to foreclose on the Zephyr property since that deed of trust was not a lien on the Zephyr property because it was void as a lien due to the unreleased original deed of trust lien and the unreleased Hannas deed and deed of trust lien. Consequently, SIWPC, WFHM and GE Mortgage's forced entry and taking of the Zephyr property from the plaintiffs and forcibly and fraudulently

conveying legal title breached and interfered with the plaintiffs contractual ownership and rental contract;

e) The note for the Zephyr property stated that the property was located in Chesapeake, Virginia when the property was located in Virginia Beach. SIWPC failed to seek the aid of the state court to reform the note's fatal property location error. Consequently, the deed of trust was not a lien on the plaintiff's Virginia Beach property and the deed of trust could not have secured the note or provided any authority for the substitute trustee to foreclose the property;

f) SIWPC, WFHM and GE Mortgage failed to properly accelerate the note's debt and failed to properly notify the plaintiffs in anyway whatsoever at the correct "notice" address the plaintiffs provided to WFHM in direct violation of paragraph 13 of the deed of trust. The plaintiffs "notice" address was P. O. Box 6872, Virginia Beach, Virginia 23456 and was provided to WFHM (as servicer for GE Mortgage) many months before the defendants initiated the foreclosure proceedings;

g) SIWPC, WFHM and GE Mortgage failed to notify the Hannas about foreclosure of the Zephyr property pursuant to Code of Virginia § 55-59.1(A) since the Hannas had a valid, unreleased deed and deed of trust lien on the Zephyr property and, consequently, failed to meet the statutory prerequisites for acceleration of the note's debt;

h) SIWPC, GE Mortgage, WFHM and Landmark combined and conspired to cause foreclosure of the Zephyr property to be advertised in the *Virginian-Pilot* newspaper for the specific purpose of selling the property and forcibly taking the property from the plaintiffs. SIWPC failed to conduct the foreclosure within the time after beginning and completion of the advertisement as prescribed by Virginia law, but instead conducted the foreclosure sale over two months after the initial advertisement, and failed to advertise the cancellation or postponement of the original foreclosure sale, both in violation of the terms of the deed of trust and Virginia law;

i) SIWPC's employee Carolyn B. Leen ("Leen") conducted the foreclosure auction as auctioneer and the trustee or representative of the trustee failed to attend the foreclosure sale in violation of Virginia law;

j) There were no bids made on the Zephyr property by any of the attendees and Leen announced publicly that GE Mortgage's written bid of $65,000.00 she made in open outcry would be the winning bid. In the final statement of accounting, SIWPC represented that the sale price was only $56,056.00, thus depriving the plaintiff of $8,944.00. SIWPC fraudulently misrepresented the actual price of the winning bid in its final statement of account for the foreclosure sale to unjustly enrich GE Mortgage;

k) SIWPC conspired with WFHM and GE Mortgage in a fraudulent scheme to

fabricate and fix GE Mortgage's written bid by allowing Leen to first bid $65,000.00 in open outcry and then fixing the final statement of account price at $56,056.00 rather than $65,000.00 in violation of Virginia law;

l) GE Mortgage failed to accelerate the note's debt in accordance the language of the deed of trust and the note indicating that the property was located in Chesapeake, Virginia could not and was not secured by the plaintiff's property located in Virginia Beach, Virginia;

m) SIWPC failed to collect the $2,500.00 deposit in the form of cash or certified check from GE Mortgage as a precondition to Leen bidding on the Zephyr property on behalf of GE Mortgage as specified in the notice of sale and advertisements;

n) GE Mortgage, SIWPC and WFHM caused GE Mortgage's forced entry and exercise of ownership over the Zephyr property as a result of the void and illegal foreclosure depriving the plaintiff of the present value of the property and rental income of at least $535.00 per month since July 22, 2003 to the present date;

o) GE Mortgage and SIWPC willfully and intentionally slandered the plaintiffs' Zephyr property title in the land records of this Court by recording and indexing in those records an illegal and fabricated substitution of trustee and deed of foreclosure fraudulently conveying the property to the Secretary of United States

Department of Housing and Urban Development ("HUD");

p) Defendant Barcliff purchased the Zephyr property from HUD in June 2005 and Prime Equity financed Barcliff's purchase and secured its note with a deed of trust lien on the property in June 2005. MERS was subsequently assigned the note by Prime Equity. Barcliff, Prime Equity and MERS had actual and constructive knowledge of the unreleased original deed of trust lien and the unreleased Hannas deed and deed of trust lien since these documents were recorded in the land records of this Court. Plaintiff is entitled to have set aside the title to the Zephyr property fraudulently conveyed from plaintiffs to SIWPC, SIWPC to GE Mortgage, GE Mortgage to HUD, and HUD to Barcliff on the grounds that the July 2003 foreclosure was illegal and completely void and voidable, that the Zephyr property is being unlawfully withheld and its title was fraudulently conveyed from the plaintiffs, and that SIWPC, WFHM and GE Mortgage caused a breach of the plaintiff's deed of trust and rental contract with tenant by such foreclosure and subsequent transfers of title of the Zephyr property;

q) By advertising the Zephyr property in the *Virginian-Pilot* newspaper, foreclosing on the property, and evicting the plaintiff's tenant, Landmark, SIWPC, WFHM and GE Mortgage joined, combined and conspired to breach and tortuously interfere with the deed of trust and with the contract the plaintiff had with the tenant; and

r) Notwithstanding the wrongful and illegal foreclosure, GE Mortgage was fully paid its due by SIWPC, and in connection with the refinancing, and thereafter failed to fully and properly release the lien of its deeds of trust and the deed on the plaintiff's Zephyr property as required by and in violation of Code of Virginia § 55-66.3. Consequently, pursuant to § 55-66.3, GE Mortgage is liable to the plaintiffs for $500.00 in damages for each failure to fully and properly release both plaintiffs from the lien of its deed of trust and of the deed on the Zephyr property.

IV. Injunctive Relief

Plaintiffs incorporate by reference paragraphs 1 through 17 alleged above. Pursuant to Code of Virginia § 8.01-620 *et seq.,* plaintiffs request the Court to enjoin proceedings in the unlawful detainer action pending in the general district court, case number 08-016871, in which Wells Fargo, SIWPC, Hamlin and US Bank are unlawfully claiming title to the Longmont Road property as a result of the illegal foreclosure and on that basis attempting to evict the plaintiffs from the Longmont Road property. Plaintiffs request the Court to preliminarily enjoin defendants WFHM, Wells Fargo, SIWPC, US Bank and Hamlin from taking any actions whatsoever to obtain possession of the Longmont Road property until the Court rules on the merits of this litigation. Further, at the conclusion of this litigation, plaintiffs request the Court to permanently enjoin defendants WFHM, Wells Fargo, SIWPC, US Bank and Hamlin from taking any actions whatsoever to change the title from the

plaintiffs or to obtain possession of the Longmont Road property.

V. Jury Trial Demand

The plaintiffs demand a trial by jury.

VI. Prayer for Relief

WHEREFORE, plaintiffs, for their injuries and for the defendants' violations of state law and breaches of and interference with contracts, pray for the following relief, jointly and severally, against each of the defendants:

i. Entry of an order immediately enjoining Wells Fargo, SIWPC, US Bank, MERS and ASC from enforcing the January 20, 2006 note and deed of trust and from taking any action to foreclose or take possession of the Longmont Road property;

ii. Entry of an order canceling the January 20, 2006 note and deed of trust for the Longmont Road property under Virginia contract law;

iii. Entry of an order canceling the lien of the January 20, 2006 deed of trust for the Longmont Road property and requiring its recordation in the land records of this Court;

iv. Entry of an order of ejectment requiring Wells Fargo, SIWPC, US Bank, MERS and ASC to take steps to abrogate all actions taken to cause a change of title of the Longmont Road property;

v. Entry of an order awarding the plaintiffs any and all fees, charges, prejudgment and post-judgment interest, penalties, and any other amounts of money the plaintiffs paid to the defendants or was paid by the defendants on plaintiffs behalf to any third party in connection with and since the January 20, 2006 refinancing for the Longmont Road property;

vi. Entry of an order finding that Wells Fargo, ASC, MERS, US Bank and SIWPC breached and tortuously interfered with the note, deed of trust and its supporting contractual documents for the Longmont Road property by refusing to comply with the contractual terms, and for such breach and interference awarding the plaintiffs' damages as specified in the contractual documents;

vii. Entry of an order finding the February 6, 2008 illegal foreclosure auction of plaintiffs' Longmont Road property, change of title, and any accounting submitted to, accepted and or approved by the commissioner of accounts office to be voided;

viii. Entry of an order awarding the plaintiffs prejudgment interest from January 20, 2006 in connection with the Longmont Road property;

ix. Entry of an order awarding the plaintiff prejudgment interest from July 22, 2003 in connection with the Zephyr property;

x. Entry of an order finding the July 22, 2003 foreclosure sale and any related accounting

accepted by the commissioner of accounts office for the Zephyr property void and awarding the plaintiffs restoration of title, restitution for loss of use, property appreciation and ownership benefits, and interest thereon from July 22, 2003;

xi. Entry of an order finding that GE Mortgage, Landmark, WFHM and SIWPC breached and tortuously interfered with the plaintiff's rental contract and with the note, deed of trust and its supporting contractual documents for the Zephyr property by refusing to comply with the contractual terms, and for such breach and interference awarding the plaintiff damages as specified in the contractual documents and other resulting damages;

xii. Entry of an order restoring plaintiffs' title, and setting aside the Zephyr property transfers of title, deeds or deeds of trust: plaintiffs to SIWPC, SIWPC to GE Mortgage, GE Mortgage to HUD, and HUD to Barcliff, and any other title or ownership transfers;

xiii. Entry of an order awarding the plaintiffs all fees and costs, including expert witness and attorneys' fees where applicable, expended in this action;

xiv. Entry of an order awarding, where applicable, compensatory damages, and the maximum statutory punitive damages against the defendants; and

xv. Such other and further relief, statutory or common law, as the Court may deem just and proper.

Respectfully submitted,

/s/	/s/
Michael A. Scott	Terry A. Scott
Plaintiff, *pro se*	Plaintiff, *pro se*

4753 Longmont Road
Virginia Beach, Virginia
23456-5017
(757) 495-0844

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

MICHAEL A. SCOTT,

Plaintiff,

v. AT LAW NO. L99-351-01

NORFOLK SOUTHERN CORP., et al.,

Defendants.

ORDER

This matter came before the Court on Intervenors' Motion to Show Cause and for Sanctions ("Intervenors' Motion") to enforce certain prior orders of this Court enjoining Michael Scott ("Scott") from filing any further actions in any court in this Commonwealth without prior leave of this Court, including orders dated July 2, 2001, and January 31, 2008. This Court held hearings on Intervenors' Motion on July 14, 2008, August 20, 2008, September 22, 2008, and October 28, 2008.

During the August 20, 2008 hearing, this Court heard evidence, including *ore tenus* testimony. During the August 20, 2008 hearing, the Court also advised Michael Scott of his right to an attorney and asked Mr. Scott whether he wanted an attorney appointed for him or whether he wanted to retain counsel. Mr. Scott declined and executed a waiver of

counsel form, which is in the record of this case. At the conclusion of the August 20, 2008 hearing, the Court instructed the parties to file proposed findings of fact and conclusions of law, which the parties did, and instructed the parties to appear on September 22, 2008, for a ruling on the Intervenors' Motion.

Thereafter, at the hearing on September 22, 2008, the Court instructed the parties that it would hear any further evidence on October 28, 2008. In the interim, Scott filed a renewed Motion to Dismiss or, in the Alternative, to Stay, Motion for Interlocutory Appeal, and Motion for Bill of Particulars in this Court.

The parties then appeared before the Court on October 28, 2008, at which time the Intervenors and Mr. Scott both relied on the evidence and argument submitted at the August 20, 2008 hearing and subsequent proposed findings of fact and conclusions of law. As of October 28, 2008, Mr. Scott had taken no action to dismiss the case pending against the Intervenors in the Circuit Court of the City of Virginia Beach and had continued to pursue other legal claims via his defenses to the unlawful detainer action pending in the General District Court of the City of Virginia Beach and his motion for sanctions against certain of the Intervenors for allegedly failing to respond to a subpoena duces tecum.

During the October 28, 2008 hearing, the Court also noted that it had consulted with the Attorney General's office prior to the hearing, and as of the time of the October 28 hearing there had been no action by the Court of Appeals on Scott's

Emergency Motion to Stay Proceedings in Lower Court and Petition for Issuance of a Writ of Prohibition and for Issuance of a Writ of Mandamus.

In consideration of the pleadings, proposed findings of fact and conclusions of law, evidence, arguments of counsel and for good cause shown, it is hereby ADJUDGED, ORDERED and DECREED

1. Scott's Motions to Dismiss, for Stay of Trial, for Interlocutory Appeal, and Bill of Particulars are hereby DENIED;

2. Intervenors' Motion to Show Cause and for Sanctions is hereby GRANTED;

3. It appearing from the evidence offered in this matter that Scott is in civil contempt of the Court's order of July 2001 enjoining him from filing lawsuits without leave of Court and abused the permission granted by this Court to defend against the foreclosure in Virginia Beach. It is therefore ORDERED that within five (5) days of the date of entry of this Order Scott shall dismiss all matters filed by him pending in the Circuit Court of the City of Virginia Beach and shall withdraw all requests for any type of affirmative relief that may have been filed by him in any pending case, including before a Commissioner of Accounts regarding the foreclosure accounting and in the unlawful detainer action pending in the General District Court for the City of Virginia Beach;

4. It is further ORDERED that any permission given Scott by this Court to defend

against the foreclosure in Virginia Beach, including any permission given pursuant to this Court's order of January 31, 2008, is withdrawn due to his abuse of the process of the Court and harassment of other persons;

5. It is further ORDERED that pursuant to Virginia Code § 8.01-271.1, Scott shall pay to petitioners, through their attorney, the sum of $40,330.59 as attorney's fees and costs incurred herein;

6. It is further ORDERED that the parties shall appear before this Court on Wednesday, November 5, 2008, at 2:00 p.m., to determine whether the Court's rulings contained herein have been met under penalty of criminal sanctions.

ENTER: 10/28/08

/s/
Charles E. Poston, Judge

I ASK FOR THIS:

/s/
Stanley G. Barr, Jr.
R. Johan Conrod, Jr.
Counsel for Petitioners

SEEN AND OBJECTED TO:

/s/

Michael A. Scott,
Pro se plaintiff

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

MICHAEL A. SCOTT,

Plaintiff,

v. AT LAW NO. L99-351-01

NORFOLK SOUTHERN CORP., et al.,

Defendants.

ORDER

THIS DAY came Petitioner, Samuel I. White, P.C., Wells Fargo Bank, NA, DLJ Mortgage Capital, Inc., Wells Fargo Home Mortgage, Inc., d/b/a America's Servicing Company, US Bank, NA, GE Mortgage Services, LLC, and Jason Hamlin ("Petitioners"), by counsel, requesting leave to intervene in this matter and seeking injunctive and other relief against Michael A. Scott ("Scott"), and represent to the Court that Scott has filed a lawsuit against Petitioners and others seeking to set aside a foreclosure of his residence at 4753 Longmont Road, Virginia Beach, Virginia (the "Longmont Property"), and other relief, without first obtaining permission from this Court to do so.

It appears to the Court that by Order dated July 2, 2001, this Court found that Scott had a history of filing frivolous and vexatious lawsuits and

enjoined him from filing any other lawsuits in the Commonwealth of Virginia without first obtaining leave of court.

It further appears that Scott filed a lawsuit in the United States District Court in Norfolk on November 8, 2003, against Petitioners and others, seeking relief from threatened foreclosures on the Longmont Property and another piece of real estate owned by Scott and his wife, Terry, at 602 Zephyr Court, Virginia Beach, Virginia (the "Zephyr Property"), which lawsuit was dismissed and with a prefiling injunction entered in that Court as well.

It further appears that on January 31, 2008, this Court entered an Order granting Scott leave to file a lawsuit in the Circuit Court of the City of Virginia Beach to enjoin foreclosure of the Longmont Property, which lawsuit was filed on February 8, 2008 (the "First Virginia Beach Action") against Petitioners and others, which action was removed to the United States District Court in Norfolk where it was dismissed on March 14, 2008, for failure to seek leave from the United States District Court before filing the action.

It now appears that Scott has filed yet another lawsuit in the Circuit Court of the City of Virginia Beach on June 9, 2008, CL08-003200-00 (the "Second Virginia Beach Action") against Petitioners and others, seeking to set aside the foreclosure of the Longmont road property of February 6, 2008, and the Zephyr Property foreclosure, and other relief.

The Court finds that Scott did not seek leave from this Court before filing the Second Virginia Beach Action. The Court also finds that Scott has filed a series of law suits against Petitioners, and others, which have been dismissed. The Court further finds that inasmuch as Scott sought leave of court to sue Petitioners, it is appropriate that Petitioners be permitted to intervene in this case.

Therefore, it is ORDERED that Petitioners be and they are hereby permitted to intervene in this case; ~~it is further ORDERED that all proceedings in the Second Virginia Beach Action be and~~ (init. CEP) ~~they are hereby STAYED;~~ and it is further ORDERED that Michael Scott appear in this Court on August 6, 2008, to show cause, if any he can, why he should not be found in contempt of this Court's Order.

ENTER: 8/7/08

/s/
Charles E. Poston, Judge

I ASK FOR THIS:

/s/
Stanley G. Barr, Jr.
R. Johan Conrod, Jr.
Counsel for Petitioners

SEEN AND OBJECTED TO:

/s/
Michael A. Scott,
Pro se plaintiff